

Montana Operations Manual  
**Jury Duty and Witness Leave Policy**

<b>Policy Number</b>	03-0322	<b>First Issued</b>	November 21, 1977
<b>Issuing Authority</b>	Department of Administration	<b>Effective Date</b>	August 12, 2010
	State Human Resources Division	<b>Last Revised</b>	August 12, 2010

**Policy Purpose:** This policy establishes uniform procedures for granting eligible state employees paid time from work to serve as a witness or on jury duty.

**Scope:** This policy covers Montana's executive branch employees except those employed by the Montana State Fund, the Montana university system, as well as student interns, short-term workers, elected officials, the personal appointed staff of elected officials, and other employees exempt from policy under 2-18-103, -104, and -601(6), MCA.

Any collective bargaining agreement providing greater jury duty or witness leave benefits supersede this policy.

**Procedures:** Agency management will grant employees leave to serve on a jury or as a witness when properly subpoenaed or summoned, in accordance with 2-18-619, MCA.

**A. Requests for Leave** Employees must request leave using leave request procedures established by agency management. They must inform management of the date(s) and anticipated length of absence as soon as possible after being summoned or subpoenaed. The employee must provide a copy of the summons or subpoena with the leave request.

State law allows agencies to request employees be excused from jury duty if those employees are "needed for the proper operation" of the agency (2-18-619, MCA). The agency head or designee must sign all requests to excuse an employee from jury duty and should cite the statute.

**B. Pay and Expenses** When properly subpoenaed or summoned, employees have two choices. They may choose to:

1. use accrued annual leave or compensatory time; or
2. receive regular pay and benefits while on approved jury duty or witness leave.

Employees must notify agency management of their choice at the time they request the leave.

Employees who choose to use accrued paid leave may keep all fees and allowances paid to them for their service as a juror or witness. Employees

who choose to receive regular pay and benefits will be paid for their regularly-scheduled hours. Employees will not receive payment for hours served outside their regular work schedule. Employees receiving regular pay must forward all fees and allowances received for their service as a juror or witness to the agency's payroll clerk within three days of receipt.

Employees who serve as jurors may submit a claim for expenses. Employees who serve as witnesses may submit a claim for expenses if the appearance was for work-related reasons. If employees receive payment from the court or a third party reimbursing them for the same expenses, they must return any dual payments to their agency.

Employees who use their personal vehicle and receive a mileage allowance from the court may keep the funds. If a state vehicle is used any mileage allowance paid must be returned to the agency.

When an employee is subpoenaed to testify in connection with the employee's official duties in a civil action where the state or its agencies are not a party, agency management may require reimbursement for the compensation and benefits paid to the employee from the person requesting issuance of the subpoena (26-2-515 and 2-18-626, MCA).

## **C. Return to Work**

Employees granted leave to serve on a jury or as a witness must return to their next regularly-scheduled shift upon release from duty. If the shift is in progress at the time of release, they must make a reasonable attempt to return to work immediately or arrange with their supervisor to return at a later specified time.

### **Resources:**

Montana Code Annotated:

Jury Duty – Service as a Witness - 2-18-619, MCA.

Department of Justice Employees -- Payment of Compensation for Time Spent Answering Subpoena – 2-18-626, MCA.

### **Definitions:**

All definitions under 2-18-101, MCA apply to this policy. The following definitions also apply.

**Jury duty leave** means an approved leave of absence with pay for an employee who has been properly summoned to serve as a juror in a court or judicial proceeding.

**Witness leave** means an approved leave of absence with pay for an employee who has been properly subpoenaed to serve as a witness in a court, judicial proceeding, or administrative proceeding.